UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

MICHAEL REDLEY,

Defendant.

---X

S2 15 Cr. 95 (AJN)

SENTENCING MEMORANDUM OF THE UNITED STATES OF AMERICA

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PRELIMINARY STATEMENT

The defendant in this case, Michael Redley, is scheduled to be sentenced on May 8, 2017. The Government respectfully submits this memorandum in advance of that sentencing and in response to Redley's sentencing memorandum, which requests a sentence "well below" 36 months' imprisonment, *i.e.*, less than half of the bottom of the United States Sentencing Guidelines ("U.S.S.G." or "Guidelines") range of 70 to 87 months' imprisonment. For the reasons that follow, a sentence within the Guidelines range is necessary to reflect the history and characteristics of the defendant and the seriousness of the offense, and to provide adequate deterrence to criminal conduct. Redley was a drug dealer with the Big Money Bosses ("BMB") and this is his *seventh* criminal conviction.

I. Procedural History

On April 27, 2016, the S2 Indictment in this case was unsealed, charging 63 members and associates of BMB with: (1) racketeering conspiracy, in violation of Title 18, United States Code Section 1962; (2) narcotics conspiracy, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A), and 846; (3) narcotics distribution, in violation of Title 21, United States Code, Section 860; and/or (4) firearms discharge, in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

On December 22, 2016, Redley pled guilty to a lesser included offense of Count Two of the S2 Indictment in this case, which charged him with narcotics conspiracy, in violation of Title 21, United States Code, Sections 846 and 841(b)(1)(C). (PSR ¶ 8.)

II. Offense Conduct

A. Background

Beginning in December 2014, the New York City Police Department, the Drug Enforcement Administration, Homeland Security Investigations, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives conducted an investigation into two rival street gangs—BMB and the 2Fly YGz ("2Fly")—that were operating in the Bronx, New York. The investigation revealed that since at least in or about 2007, up until in or about 2016, members of BMB and 2Fly were involved in a variety of racketeering acts, including murders, attempted murders, robberies, narcotics trafficking, bank fraud, and counterfeit currency offenses.

B. BMB

The structure of BMB is described accurately in the PSR.

BMB was a subset of the "Young Bosses," or "YBz" street gang, which operates throughout the New York City area. BMB—whose members also sometimes refer to themselves as the "Money Making Mafia" or "Triple M"—operated primarily on White Plains Road from 215th Street to 233rd Street in the Bronx, which is a long stretch of road under a subway train overpass that is hedged on each side by single-family homes and local commercial establishments. BMB's narcotics trafficking activity was based principally in the vicinity of White Plains Road and 224th Street, an open-air drug spot that was referred to by gang members as the "Forts." BMB members sold drugs and down White Plains Road, however, including at a spot on 219th Street and a house on 230th Street. BMB members sold crack cocaine, marijuana, and prescription pills, including Percocet pills (i.e., oxycodone). BMB members kept firearms at each of these White Plains Road locations. BMB members also operated a drug spot on Boston Road and Eastchester Road in the Bronx, which they refer to as "B Road." BMB members who worked principally at the B Road spot typically refer to themselves as "Blamma." Generally speaking, BMB members were encouraged to continue openly "jacking," or proclaiming their membership in the gang, and many did so not only in person but also through social media websites such as Facebook.

In addition to its narcotics trafficking, BMB members and associates engaged in acts of violence, including shootings, stabbings, and gang assaults; these acts of violence protected the power of the gang, deterred attacks from rivals, and secured the gang's territories and drug spots. Moreover, members who engaged in a sufficient amount of violence could earn a leadership position, which was referred to as a "Big Suit." Members with "Big Suit" status were further subcategorized as, among other things, "Burberry Suits," "Louis Suits," "Gucci Suits," Ferragamo Suits," and "Sean John Suits," in order to signify their relative rank in the gang. Among other things, a BMB member with "Big Suit" status had the authority to recruit other individuals into the gang. Two of the highest-ranking "Big Suits" in BMB were NICO BURRELL, a/k/a "Zico Nico," and DOUGLAS MCLARTY, a/k/a "Q Don." Both BURRELL and MCLARTY enhanced their status in the gang, in part, by committing attempted murders when they were each juveniles.

Members of BMB rose in status and rank within the gang not only by engaging in acts of violence, but also by maintaining their membership in the gang for a long period of time.

Members who were loyal associates for a substantial amount of time are referred to as "Day One Niggas," meaning that they have been associating with the gang since its earliest days. For example, in a posting on Facebook on July 7, 2013, BMB member RASHEID BUTLER, a/k/a "Rah," wrote: "i love my Day1 Niggas that was here since this #TripleM Shit 1ST STARTED." Similarly, BMB leader NICO BURRELL, a/k/a "Zico Nico," discusses the "Day One" concept in a rap video posted on YouTube in December 2015 and entitled "Live From Gutter." In the video, BURRELL raps, "No new niggas, only day one / I know they ain't tellin' if that day come," after which another rapper repeats in the background, "no snitchin.'"

BMB has, more generally, developed a gang norm against "snitchin,'" or cooperating with law enforcement. For example, a BMB associate posted on Facebook on July 20, 2011, "Like QuDOn Said 'No Snitchin Policy'"; the reference to "QuDOn" is a reference to MCLARTY, who is one of BMB's leaders and whose alias is "Q Don." BMB's norm against "snitchin'" was fostered through YouTube videos and social media postings, including postings in which gang members are praised for their refusals to cooperate with law enforcement in particular instances. The norm is also enforced through disparagement of and threats of violence against BMB members who are suspected of having violated the norm by cooperating. During the course of this investigation, law enforcement learned of at least one instance in which a BMB member's home was fired upon because he made a statement to law enforcement about individuals with whom he had committed a robbery. During another instance, the child of a suspected cooperator in this case was threatened and spat upon in the street. The norm against cooperation facilitates the gang's criminal enterprise and is one of the reasons why members of BMB tend to commit their robberies and fraud offenses with other members of BMB.

Many of the specific acts of violence committed by BMB members related to its longstanding rivalry with 2Fly, which is based principally in the nearby Eastchester Gardens public housing development ("Eastchester Gardens"), but which also has members who live in the "Valley" area just east of BMB's "B Road" spot on Boston Road and Eastchester Road. BMB also has developed rivalries with other street gangs in the northern Bronx, including the "Young Shooter Gang," or "YSGz," which is based in the Edenwald public housing development ("Edenwald"), and the "Slut Gang," which is based in the Boston-Secor public housing development ("Boston-Secor"). In connection with these rivalries, BMB members developed a practice of "mobbing," meaning to gather in large groups and travel to the base of operations of a rival gang to engage in violence there. Members of rival gangs also sometimes went "mobbing" and attack or attempt to attack BMB at its bases of operations. Videos of "mobbing" incidents were posted on YouTube. The close proximity of the BMB, 2Fly, YSGz, and Slut Gang bases of operations—all of which are in or on the border of the New York City Police Department's 47th Precinct—contributed to the frequency of acts of violence.

In addition to acts of violence, members and associates of BMB promoted their gang and disparaged rival gang members by highlighting a distinguishing feature of BMB: it is not based in a housing development, as are its principal rivals 2Fly (in the Eastchester Gardens), YSGz (in Edenwald), and the Slut Gang (in Boston-Secor).[1] As noted above, BMB principally operated along White Plains Road, a long stretch of road hedged on each side by single-family homes and local commercial establishments. The name of the gang ("Big Money Bosses") and the other allusions to wealth that the gang employs (for example, the brand-name clothing retailers used to

[1] On April 20, 2017, the case captioned *United States* v. *Steve Boria* et al., 17 Cr. 142 (RA) was unsealed, charging 19 members and associates of the Slut Gang with racketeering, narcotics, and/or firearms offenses.

identify leadership positions) all serve to underscore this difference. In addition, members and associates of BMB have publicly mocked the living conditions of the housing developments in which many of their rivals live. For example, in a Facebook post on July 10, 2014, BMB member DONQUE TYRELL, a/k/a "Polo Rell," posted a photograph of a young child laying on a bed and covered with cockroaches, with the caption "MEANWHILE IN EDENWALD." In connection with the posting of this picture, TYRELL wrote, "Dirty ass project," followed by six smiley-face "emoticons." Similarly, in a Facebook posting on May 28, 2014, BMB member MASHUD YODA, a/k/a "Papa Ola," writes, "No Lie ECG [*i.e.*, the Eastchester Gardens] The Dirtiest PROJECTS UPTOWN . . . . Like OBAMA Said CHANGE But I Guess He forgot Bout ECG !!"

Consistent with this feature of BMB, members and associates of the gang engaged not only in narcotics distribution and robberies to enrich and distinguish its members from rivals, but also engaged in a variety of frauds, including bank fraud and counterfeit currency offenses. To perpetrate some of these fraud offenses, BMB members and associates often employed their girlfriends and female acquaintances.

C. Redley's Role

Redley sold marijuana and crack cocaine with members and associates of BMB from a residence on White Plains Road and 226th Street. Redley worked for a larger-scale crack supplier and collected money from and provided crack cocaine to purchasers on behalf of the larger scale supplier.

On January 26, 2015, the residence was raided by NYPD officers pursuant to a search warrant and Redley and Daquan Reid were present and arrested, along with the supplier. A large amount of crack cocaine (approximately 200 grams) and marijuana were recovered.

Redley also was arrested on July 20, 2011 at White Plains Road and 226th Street after he was found to be in possession of a quantity of oxycodone pills and marijuana. Also arrested with Redley was BMB member David Jones. In addition, Redley was arrested at White Plains Road and 226th Street on September 16, 2011 after he was observed in plain view selling a small quantity of marijuana

III. The Defendant's Criminal History

Redley has a serious criminal history—this is his seventh criminal conviction. He also has a history of disrespect for law enforcement and for the Courts.

In 2005, at age 17, Redley was arrested in Georgia after he and another person attempted to burglarize a woman's home. (PSR ¶ 39.) He was sentenced to probation but fled and was sentenced to 10 months' imprisonment. (PSR ¶ 39.) He also failed to report 14 times while he was on probation. (PSR ¶ 39.)

In 2006, at age 18, he was arrested after fleeing from the police after running through a stop sign, which resulted in 30 days' imprisonment and 24 months' probation. (PSR ¶ 40.) (This happened while Redley was on probation for the burglary.)

In 2008, he was sentenced to 6 months' imprisonment after he lied to the police about his name. (PSR ¶ 42.) (This happened while Redley was on probation for the burglary and the flight from police.)

In 2009, he was arrested for drunk driving, which resulted in 1 day of imprisonment and 12 months of probation. (PSR ¶ 43.) (This happened while Redley was on probation for the burglary.)

In 2010, Redley was arrested again and convicted of drunk driving, which resulted in 72 hours of imprisonment, 12 months' probation, and a fine. (PSR ¶ 44.) Redley violated his probation by drinking alcohol, which resulted in 48 hours of imprisonment. (PSR ¶ 44.)

In 2011, Redley pled guilty to possessing marijuana, which resulted in a fine. (PSR ¶ 45.)

IV. The PSR and Guidelines Calculation

The PSR, like the parties' Plea Agreement, accords the defendant an offense level of 25 and designates him in Criminal History Category III. His sentencing Guidelines range is therefore 70 to 87 months' imprisonment.

3553(a) ARGUMENT

For the reasons that follow, a sentence within the stipulated Guidelines range is necessary to meet the statutory sentencing factors, in particular to reflect the history and characteristics of the defendant and the seriousness of the offense, and provide adequate deterrence to criminal conduct.

Redley sold crack with BMB, a violent street gang. While Redley was not personally a member of BMB and is not known personally to have participated in violence, the instant offense is nevertheless serious. BMB terrorized a community. And crack is a poison that kills people and destroys families. Accordingly, a substantial sentence is necessary to reflect the seriousness of the offense.

Redley's history and characteristics also favor a Guidelines sentence. He has been given chance after chance with lenient sentences in the past—probationary terms and brief terms of imprisonment, for the most part—and has squandered each chance by violating probation and committing new crimes. Indeed, his most recent offense—selling crack with a vicious street gang—demonstrates an escalating pattern of criminal conduct. A harsh sentence is necessary if there is to be any hope of deterring Redley from continuing down this criminal path.

The Probation Office recommends a drastic downward variance to 36 months, evidently for the sole reason that Redley was not involved in violence. But this is already reflected in his Guidelines, which are much lower than they would be if, for instance, he had committed murder or attempted murder. The Probation Office's reasoning would render the Guidelines for drug offenses meaningless. The recommendation also fails to recognize the damage drugs wreak and the inextricable link between drugs and violence.

In his argument for a sentence even lower than the Probation Office recommends, Redley points to two other defendants in this case: Bradley Wilson and Daquan Reid. The Government agrees that these are reasonable comparators, but the comparison favors the Government's requested sentence, not Redley's. In particular, Wilson's and Reid's offense conduct was substantially similar to Redley's. But neither Wilson nor Reid had a criminal record that came close to Redley's. Wilson had only a prior conviction for disorderly conduct, *i.e.*, a conviction that did not even generate criminal history points[2]; Reid had been arrested once for possessing marijuana but never sustained a single criminal conviction. Accordingly, a Guidelines sentence in this case—and not the sentence Redley requests—would do more to avoid unwarranted sentencing disparities in this case.

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[2] Wilson also had two open cases, but those did not figure into his criminal history because there were no convictions yet.

CONCLUSION

For the foregoing reasons, the Government respectfully requests that the Court impose a sentence within the range of 70 to 87 months.

Dated: New York, New York
May 4, 2017

Respectfully submitted,

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